

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, March 1, 2007

Division Five

**A113172 – Ryan Walsh et al. v. Ikon Office Solutions, Inc.**

The order is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, March 2, 2007

Division Two

**A111148 – The People v. Jose Giovanni Aristondo.**

Defendant's conviction and sentence are affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A114204 – Dennis W. Brown v. F. Rodgers Insulation, Inc.**

The judgment is affirmed. FRI is awarded the costs on appeal. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Four

**A115320 - In re Phillip L., a Person Coming Under the Juvenile Court Law. The People v. Phillip L.**

The order is affirmed. Rivera, J. We Concur: Ruvolo, J., Reardon, J. (Not for Publication.)

Division Five

**A112710 - In re Jordan L., a Person Coming Under the Juvenile Court Law. The People v. Jordan L.**

The disposition order is affirmed. Simons, J. We Concur: Jones, P.J., Miller, J.\* (Not for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, March 5, 2007

Division One

**A115909 – Theodore L. v. The Superior Court of Contra Costa County; Contra Costa County Bureau of Children & Family Services et al., R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, ' 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) This decision is final in this court immediately. (Rule 8.264(b)(3).) Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A115370 – Dennis W. Brown v. F. Rodgers Insulation, Inc.**

The judgment is affirmed. FRI is awarded the costs of appeal. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

**A109036 – The People v. Michael Ringo.**

By the Court: The petition for rehearing is denied. Parrilli, Acting P.J.

Division Five

**A114827 – Democritus Punla v. Terminal Maintenance Company, et al.**

The order of the trial court denying the petition to compel arbitration is affirmed. Miller, J.\* We Concur: Jones, J., Simons, J. (Not for Publication.)

**A113223 - In re K.S., a Person Coming Under the Juvenile Court Law. Alameda County Department of Social Services v. Barbara J.**

The judgment is affirmed. Miller, J.\* We Concur: Simon, Acting P.J., Gemello, J. (Not for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, March 6, 2007

Division One

**A113897 – The People v. John Paul Oliver.**

The Penal Code section 1202.4, subdivision (f) restitution order is reversed, and the case is remanded for redetermination of the amount of restitution owed to the victim. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A114744 – In re I.S. and M.S., Persons Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. L.S., O.I..**

The orders are affirmed and Father's petition is denied. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A116375 – Sabrina A. v. Superior Court of Contra Costa County; Children and Family Services of Contra Costa County.**

The petition for extraordinary writ is denied on the merits. Our decision is final as to this court immediately. (Rule 8.264(b)(3).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A111019 – The People v. Herbert Wilson.**

The judgment appealed from is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A111246 – The People v. Andres Vazquez Rios.**

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

**A110043 – David C. Lee, as Special Administrator, etc. v. Max Schoenfeld.**

The judgment is affirmed. The special administrator shall bear costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Wednesday, March 7, 2007

Division Three

**A105790 – Federal Insurance Company v. Symons Corporation, American International Surplus Lines Insurance Company et al.**

The judgment filed on January 5, 2004, is affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

**A115824 – The People v. Lewis Henderson, Jr.**

By the Court: Appellant having filed an abandonment of appeal in this court, the appeal is dismissed and the remittitur is to issue forthwith. Jones, P.J.

Thursday, March 8, 2007

Division Three

**A106722 – Rhainell A. Madrona v. Edith A. Madrona.**

The judgment is reversed and the case remanded to the trial court for further proceedings. Each party to bear its own costs. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A114458 - The People v. Jimi Axis Suma.**

**A116867 – In re Jimi Axis Suma, on Habeas Corpus.**

By the Court: On the court's own motion, the petition for a writ of habeas corpus, *In re Suma*, A116867, is consolidated with the appeal in *People v. Suma*, A114458. This court's consideration of the request for judicial notice and this court's determination of whether to issue an order to show cause will be deferred until the issues on the appeal have been considered.

The Attorney General is directed to furnish opposition to the petition on or before the date of filing of the respondent's brief in A114458. Petitioner's response, if any, must be filed on or before the date of filing of the appellant's reply brief in A114458.

Please direct any inquiries to the Deputy Clerk for Division Three at (415) 865-7295. McGuiness, P.J.

Division Four

**A113481 – Southern California Labor/Management Operating Engineers Contract Compliance Committee v. John M. Rea, as Acting Director, etc.; Ford Construction Company, R.P.I.**

By the Court: Order Modifying Opinion. It is ordered that the opinion filed herein on February 8, 2007, be modified as follows: (See order.) There is no change in the judgment. Ruvolo, P.J. (Not for Publication.)

**A112838 – The People v. James Brandon.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A112825 – S.B.C.C., Inc., etc., et al. v. Roof Structions, Inc.**

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

Friday, March 9, 2007

Division Two

**A115827 – Jacqueline E. v. The Superior Court of San Francisco County; San Francisco Department of Human Services, et al., R.P.I.**

Let a peremptory writ of mandate issue directing respondent juvenile court to vacate its October 3, 2006, order and enter a new order granting petitioner's request for a contested hearing. This decision is final forthwith. (Cal. Rules of Court, rule 8.264(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A112712 – In re Corey L., a Person Coming Under the Juvenile Court Law. The People v. Corey L.**

The dispositional order of December 7, 2005, is affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A111891 – The People v. Avelino Ceja Villa.**

The judgment is affirmed. Siggins, J. I Concur: Pollak, J. (See concurring opinion by McGuinness, P.J.) (Certified for Publication.)

**A111161 – In re Louis B., Jr., et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jamie J. et al.**

The juvenile court's order are affirmed. Pollak, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

**A115076 – The People v. Alberto Lorenzo Ubau.**

**A115581 – In re Alberto Lorenzo Ubau, on Habeas Corpus.**

The sentence of the trial court imposing a state prison term is reversed. The petition for writ of habeas corpus is dismissed as moot. The case is remanded to the trial court for purposes of entering the original order placing defendant on probation. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

**A116281, A116282 – In re Natasha H. et al., Persons Coming Under the Juvenile Court Law. Denise V. et al. v. Humboldt County Superior Court; Humboldt County Department of Health & Human Services, Social Services Branch.**

Denise's and James's petitions for an extraordinary writ and requests for a stay are denied. This opinion is final in this court immediately. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Friday, March 9, 2007 (continued)

Division Five

**A111642 – Kenneth J. Howard v. Christopher B. Dolan.**

The judgment is affirmed. Respondent shall be awarded costs on appeal. Simons, J. We  
Concur: Jones, P.J., Gemello, J. (Not for Publication.)



Monday, March 12, 2007

Division One

**A115648 – In re Joseph S., a Person Coming Under the Juvenile Court Law. The People v. Joseph S.**

The order adjudicating appellant a ward of the court and placing him in the Log Cabin Ranch School is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A111578 – Larry Allred v. Frederick L. Kennerley, Jr.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A116372 – Jennifer L. v. The Superior Court of Napa County; Napa County Department of Health and Human Services, R.P.I.**

**A116373 – Ken L. v. The Superior Court of Napa County; Napa County Department of Health and Human Services, R.P.I.**

The requests for a temporary stay are denied. The petitions for extraordinary writ are denied on the merits. (See Cal. Const., art. VI, ' 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) This decision is final in this court immediately. (Rule 8.265(b)(3).) Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A112975 – In re Charles B., IV, a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Leslie B.**

The order terminating Mother's parental rights is reversed and the matter is remanded to the juvenile court with directions that the juvenile court determine, based on all the information before it, whether there has been proper ICWA notice. The juvenile court may make that determination or find ICWA notice insufficient and direct the Department to comply with the notice provisions of ICWA. After proper ICWA notice, if Charles is found not to be an Indian child and ICWA does not apply, the order terminating Mother's parental rights shall be reinstated. If after proper ICWA notice Charles is found to be an Indian child and ICWA does apply to these proceedings, the juvenile court shall proceed accordingly. Marchiano, P.J. We Concur: Stain, J., Swager, J. (Not for Publication.)

Division Two

**A112593 – Richard Pollard v. Metalclad Insulation Corporation.**

The judgment in favor of Metalclad is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Monday, March 12, 2007 (continued)

Division Three

**A114067 – In re Vaughn H., a Person Coming Under Juvenile Court Law. Alameda County Social Services Agency v. Carmen H.**

The juvenile court's orders are affirmed. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A113891, A113892, A113893, A113894 – Thomas E. Slayton, Jr. et al v. Citibank (South Dakota), N.A., Steven Wethy et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A115999 – Matthew J. Washington v. Barbara J. Bender et al.**

By notice of appeal filed on October 27, 2006 and amended notice of appeal filed on November 6, 2006, Matthew J. Washington purports to appeal from the trial court's October 27, 2006 order denying his ex parte application for release of funds. The challenged order is a nonappealable, interlocutory ruling. Accordingly, the above-referenced appeal is hereby dismissed. Jones, P.J.

**A116089 – Robert Kinann et al. v. California Insurance Guarantee Association.**

By the Court: Plaintiff Robert Kinnan, Pamela Jean Kinnan, and Kinnan & Associates Contracting, Inc. purport to appeal from the trial court's September 14, 2006 order granting defendant California Insurance Guarantee Association's motion for summary judgment. An order granting a motion for summary judgment is not appealable. Rather, an appeal may be taken only after the trial court has entered judgment in the matter. (See *Stolz v. Wong Communications Limited Partnership* (1994) 25 Cal.App.4<sup>th</sup> 1811, 1816.) Contrary to the assertion of plaintiffs' counsel in his January 3, 2007 letter, the trial court's September 14, 2006 case management minute order does not constitute the requisite judgment. Accordingly, the above-referenced appeal is dismissed as premature. Jones, P.J.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Monday, March 12, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J. and Richard H. Sandvik, Deputy Clerk.

- A109755     Ameron International Corporation  
                 v.  
                 Insurance Company Of The State Of  
                 Pennsylvania, et al.  
                 Cause called and argued by Jordan S. Stanzler, counsel for appellant, and by Robert J. Romero, Nicholas R. Andrea, Andrew P. Sclar, Michael A. Barnes, Rosemary Springer, Thomas M. Downey, and William J. Bowman, counsel for respondent. Cause ordered submitted.
- A112856     Ameron International Corporation  
                 v.  
                 Harbor Insurance Company  
                 Cause called and argued by Jordan S. Stanzler, counsel for appellant, and by Thomas M. Downey, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:34 a.m.

Tuesday, March 13, 2007

Division One

**A111691 – The People v. Rodrico Anthony Lopez.**

The reinstatement of the original sentence is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A112173 – The People v. Joseph Wells.**

By the Court: It is ordered that the opinion filed on February 14, 2007, be modified as follows: (See order.) There is no change in the judgment. To the extent the relief sought by appellant's petition for rehearing is not addressed by this amendment, the petition is denied. Marchiano, P.J.

Division Three

**A109917 – The People v. Mark Delroy Daley.**

The sentence is vacated and the case is remanded for resentencing. The judgment is otherwise affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A111490 – The People v. Marzell Brown.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, March 13, 2007

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A114385      In re Deshaun M., a Minor.  
People  
v.  
Deshaun M.

Cause called. Ramiah Shanti Brien argued for appellant Deshaun M. Gavin J. Jeff Bryant argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A111685      People  
V  
Francisco Monteros

Causes called. Stephen Bedrick argued for appellant Montero. Violet Lee argued for respondent. Cause submitted.

A109715      Donal W. Marken et al.  
v.

Franchise Tax Board

Cause called. William Taggart argued for appellants Marken et al. Marguerite Stricklin argued for respondent. Cause submitted.

A111844      Peter Chong  
v.

Maureen R. Kallins et al.

Cause called. Hugo Torbet argued for appellant Chong. Charles Gretsches argued for respondents. Cause submitted.

Court adjourned at 10:56 a.m.

Tuesday, March 13, 2007 (continued)

Division Five

**A111991 – The People v. Jerry Lee Shipley.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A114905 - In re Elizabeth W., a Person Coming Under the Juvenile Court Law. The People v. Elizabeth W.**

The June 12, 2006 disposition order is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J.

Wednesday, March 14, 2007

Division One

**A110428 – The People v. Diem Lam et al.**

The judgments are affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A115190 – The People v. Alexander VonRekowski.**

After a full review of the record, we find no arguable issues and, accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A114847 – Ronald Richardson v. Robert Wcislo et al.**

Respondents are awarded costs on appeal. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Three

**A112200 – The People v. Pablo Moran.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, March 14, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Pollak, J.; and P. Acosta, Deputy Clerk.

A108713     Diablo Valley College Faculty Senate,  
                 v.  
                 Contra Costa Community College District, et al.,  
Cause called and argued by Robert Bezemek, counsel for appellant, and John A. Shupe, and Karen L Donald, counsel for respondents. Cause ordered submitted.

A114803     City of Cloverdale,  
                 v.  
                 Alex Kumar et al.  
Cause called and argued by Joseph M. Quinn, counsel for appellant, and Frank Weiser, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Siggins joined the bench and the panel for the next case consisted of Justice McGuiness, Justice Pollak, and Justice Siggins. Justice Parrilli remained on the bench but did not participate in argument for the next case.

A111416     Insurance Commissioner Of the State Of California,  
                 v.  
                 Golden Eagle Insurance Company;  
                 Danco Valve Company.  
Cause called and argued by Kelley K. Beck, counsel for appellant, and Eric S. Engel, counsel for respondent. Cause ordered submitted.

At this point in the proceedings the panel consisted of Justice McGuiness, Justice Parrilli and Justice Siggins, Justice Pollack did not participate in the argument but remained on the bench.

A111500     Janis Arnold,  
                 v.  
                 Saldan, et al.  
Cause called and argued by Frederick C. Roesti, counsel for appellant, and David G. Hysinger, counsel for respondents. Cause ordered submitted.



At this point in the proceedings the panel consisted of Justice Parrilli, Justice Pollak and Justice Siggins. Justice McGuinness excused himself from the courtroom.

A106001 James J. Oldani, et al.,  
v.  
Our Savior Lutheran Ministries et al.  
Cause called and argued by Ruel W. Walker counsel for appellant, and Jerome M. Varanini, counsel for respondent. Cause ordered submitted.

Court Adjourned

Wednesday, March 14, 2007 (continued)

Division Four

**A109912 – The People v. Robert Matthew Church.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A115798 - In re Andre W., a Person Coming Under the Juvenile Court Law. The People v. Andre W.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A112831 – The People v. Tony Richard Low.**

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Miller, J.\* (Not for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, March 15, 2007

Division Two

**A116280 – William P., Sr. v. Superior Court of Humboldt County; Humboldt County Department of Health and Human Services, Social Services Branch, R.P.I.**

The petition is denied on the merits. (Cal. Rules of Court, rule 8.452(i)(1).) Our decision is final as to this court immediately. (Id., rule 8.264(b)(2)(A).) Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A111995 - In re Joseph L., a Person Coming Under the Juvenile Court Law. The People v. Joseph L.**

**A114684 – In re Joseph L., on Habeas Corpus.**

The judgment is affirmed. In a petition for a writ of habeas corpus (A114684), which this court previously ordered to be considered with the appeal, appellant contends his trial counsel provided ineffective assistance. We have reviewed the petition and hereby deny it. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A111634 – The People v. Christopher Lee Crawford.**

In accordance with the views expressed in part I of this opinion, the judgment is reversed with these directions: If, after the filing of the remittitur in the trial court, the People do not bring defendant to trial within the time limit specified in section 1382, subdivision (a)(2), the trial court shall proceed as if the remittitur constitutes a modification of the judgment to reflect a conviction of second degree murder in violation of section 187, subdivision (a), and shall resentence defendant accordingly. (*People v. Hayes, supra*, 142 Cal.App.4th at p. 184; *People v. Moretto, supra*, 21 Cal.App.4th at p. 1279; *People v. Edwards, supra*, 39 Cal.3d at p. 118.) Kline, P.J. I Concur: Richman, J. (See concurring opinion by Haerle, J.) (Not for Publication.)

**A113746 – International Marine Fuels Group, Inc. v. James J. Kim.**

The part of the judgment entered against James Kim is reversed. Each side is to bear its own costs on appeal. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A111878 – The People v. Dylan Lee Hosking.**

The judgment is reversed and the matter is remanded to the superior court. (See *People v. Ruggles* (1985) 39 Cal.3d 1, 13.) Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Thursday, March 15, 2007 (continued)

Division Four

**A114812 – Intervention, Inc. v. Avanir Pharmaceuticals et al., Annette Scott.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A113002 - In re A.I., a Person Coming Under the Juvenile Court Law. The People v. A.I.**

We remand for the juvenile court to state orally on the record whether the concealable firearm possession offense (Pen. Code, § 12101, subd. (a)(1)), alleged in count 2, is a felony or misdemeanor. In all other respects the order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A112953 – The People v. Fuentes Gerardo Gonzalez.**

The trial court's order denying appellant's motion is affirmed. Simons, J. We Concur: Jones, P.J., Miller, J. \* (Not for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Monday, March 15, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., Needham, Jr., J. and Richard H. Sandvik, Deputy Clerk.

- A112378     David Clark and David Furia  
              v.  
              Richard I. Fletcher, etc., et al.  
              Cause called and argued by John J. Mavredakis, counsel for appellant, and by Terry M. Ewing, counsel for respondent. Cause ordered submitted.
- A111353     Anthony Cadlo et al.  
              v.  
              Metalclad Insulation Corporation  
              Cause called and argued by Mary Pougiales, counsel for appellant, and by Lisa Oberg, counsel for respondent. Cause ordered submitted.
- A112002     Maxlyn Caldo, et al.  
              v.  
              John Crane, Inc.  
              Cause called and argued by Mary Pougiales, counsel for appellant, and by Phillip S. Ward, counsel for respondent. Cause ordered submitted.
- A114367     David O. Thueson  
              v.  
              U-Haul International, Inc. et al.  
              Cause called and argued by Bradford C. Floyd, counsel for appellant, and by James R. Evans, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Needham, Jr., J. left the bench and Gemello, J. joined the bench.

- A113455     David Reeves  
              v.  
              Kaiser Foundation Health Plan, Inc.  
              Cause called and argued by Edwin L. Bradley, II, counsel for appellant, and by Thomas E. Hill, counsel for respondent. Cause ordered submitted.

A113226     Alfred Bordessa et al.  
              v.  
              Fritz Lanker et al.  
Cause called and argued by Christopher M. Mazzia, counsel for appellant, and by Stiphen L. Barbose, counsel for respondent. Cause ordered submitted.

A113983     The People  
              v.  
              Michael Joseph Decarie  
Cause called and argued by Jeremy D. Blank, counsel for appellant, and by Michael E. Banister, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Simons, J. left the bench and Needham, Jr., J. joined the bench.

A115167     In re Zachary P., a Person Coming Under the Juvenile Court Law.  
              The People  
              v.  
              Zachary P.  
Cause called and argued by Eleanor M. Kraft, counsel for appellant, and by Michael E. Banister, counsel for respondent. Cause ordered submitted.

A112327     The People  
              v.  
              Nathan Tyrone Deese  
Cause called and argued by Peter F. Goldscheider, counsel for appellant, and by Allen R. Crown, counsel for respondent. Cause ordered submitted.

A112817     Great American Insurance Company Of New York  
              v.  
              Fidelity And Guaranty Insurance Company  
Cause called and argued by Peter J. Whalen, counsel for appellant, and by Robert A. Steller, counsel for respondent. Cause ordered submitted.

A113136     Alice Bias  
              v.  
              Pat Ryan et al.  
Cause called and argued by George M. Vlazakis, counsel for appellant, and by Daphne Beletsis, counsel for respondent. Cause ordered submitted.

Court recessed at 12:52 p.m.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Monday, March 15, 2007

Court convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Simons, Acting P.J., Gemello, J., Needham, Jr., J. and Richard H. Sandvik, Deputy Clerk.

- 114664 County Of Sonoma  
v.  
Sonoma County Assessment Appeals Board  
Fountaingrove LLC et al.  
Cause called and argued by Patrick M.K. Richardson, counsel for appellant, and by Clayton Clement, counsel for respondent. Cause ordered submitted.
- A114831 County Of Sonoma  
v.  
Sonoma County Assessment Appeals Board  
Ken Martin et al.  
Cause called and argued by Patrick M.K. Richardson, counsel for appellant, and by Clayton Clement, counsel for respondent. Cause ordered submitted.
- A112365 Cause Statewide Law Enforcement Association  
v.  
State Of California, Department Of Personnel Administration  
Cause called and argued by Gary M. Messing, counsel for appellant, and by Kevin A. Geckeler, counsel for respondent. Cause ordered submitted.
- A109531 In re the Marriage of Semrin and Vahid Ettefagh  
Semrin Ettefagh  
v.  
Vahid Ettefagh  
Hashem Ettefagh  
Cause called and argued by Ozro W. Childs, counsel for appellant, and by James I. Cohen, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:35 p.m.

Friday, March 16, 2007

Division Two

**A114653 – Hanford-Freund & Company v. Giuseppe Scoppetta et al.**

The judgment is affirmed. Scoppetta and Spinoso are awarded costs on appeal. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A112246 – Ara Tehlirian et al. v. City and County of San Francisco; Jose Morales, R.P.I.**

The superior court's denial of petitioners' petition for writ of administrative mandate is affirmed. Respondent and real party in interest are awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A114803 – Alex Kumar et al. v. The Superior Court of Sonoma County; City of Cloverdale, R.P.I.**

The petition for extraordinary relief is denied. The City is awarded costs incurred in these proceedings. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A110454 – City of Oakland et al. v. Benjamin Rogers et al.**

The trial court's May 9, 2005 order is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A113130 - In re T.H. et al., Persons Coming Under Juvenile Court Law. Del Norte County Department of Health and Social Services v. Kevin P.**

The orders are affirmed. Rivera, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A113522 – In re the Marriage of Clive Fuller and Virginia Fuller. Clive Fuller v. Virginia Fuller.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)



Monday, March 19, 2007

Division Three

**A116648 – Fullerton Medical Group v. Joseph M. Burton et al.**

The appeal is dismissed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

**A109085 – In re the Conservatorship of the Estate of Francis L. Ashley. Mark Ottovich v. Seaboard Surety Company, et al.**

By the Court: The petition for rehearing is denied. Parrilli, Acting P.J.

Tuesday, March 20, 2007

Division Two

**A114140 – The People v. Janet Dawn Felix.**

There was no error in the denial of defendant's motion to suppress, and the order of probation is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, March 20, 2007

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Richman, J., Officer Bartlett and S. Wheeler, Deputy Clerk.

- A112329      The People,  
                 v.  
                 Damadri La Zay Reed.  
Cause called and present in court was Jeff Kravitz, counsel for appellant, and William Kuimelis, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- At this point of the proceedings, J. Haerle left the bench and J. Lambden joins the bench for the remainder of the calendar.
- A110533      The People,  
                 v.  
                 Darren Andrew Petricka.  
Cause called and argued by Ozro William Childs, counsel for appellant, and Christopher Wei, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A113530 &  
A114272      Parallax Design And Construction, Inc., et al.  
                 v.  
                 Certain Underwriters At Lloyd's London, et al.  
Cause called and argued by Robert Westerfield, counsel for appellants, and Alec Boyd, counsel for respondents. Cause ordered submitted.
- A113571      The People,  
                 v.  
                 Jonathan Bernal-Delgado.  
Cause called and argued by Mark Shenfield, via teleconference, counsel for appellant, and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J., Lambden, J., Officer Bartlett and S. Wheeler, Deputy Clerk.

A115088 In re Anthony Mason on Habeas Corpus.

Cause called and argued by Michael Sattris, counsel for petitioner, and Amber Wipfler, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A112257 Sonja R. Luckett,

v.

John Agelopoulos.

Cause called and argued by Brian Beckwith, counsel for appellant, and Daniel W. Winters, counsel for respondent. Cause ordered submitted.

**COURT AJOURNED.**

Tuesday, March 20, 2007 (continued)

Division Three

**A113925 – In re Halley M., a Person Coming Under the Juvenile Court Law. Contra Costa County, Bureau of Children and Family Services v. Joyce M.**

The juvenile court's order is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A111744 – The People v. Beasley Wills.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A114528 - In re Onassis P., a Person Coming Under the Juvenile Court Law. The People v. Onassis P.**

The order is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A112384, A112635 – In re the Marriage of Stephen Lockhart and Nina Ringgold. Nina Ringgold v. Stephen Lockhart.**

Appeal No. A112635 is dismissed. As for Appeal No. A112384, the October 21, 2005 order denying Ringgold attorney fees and costs is affirmed. The remainder of the appeal is dismissed. Lockhart shall recover his costs on appeal. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A114832 – Julian P. Lagos v. City and County of San Francisco et al.; Olympic View Realty, LLC et al, R.P.I.**

The motion to dismiss the appeal is granted. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, March 20, 2007 (continued)

Division Five

**A113136 – Alice Bias v. Pat Ryan et al.**

The appeal is dismissed as untimely, to extent that the appeal seeks to challenge the 2004 dismissal rulings in favor of Fernandez and Walsh. The trial court's rulings are otherwise affirmed. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A114094 – The People v. Ricky Tith.**

The judgment is vacated, and the matter is remanded for resentencing. Miller, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, March 21, 2007

Division One

**A113589 – La Prairie Group Contractors v. CE Casecnan, et al.**

By the Court: Appellant's petition for rehearing is denied. Respondent's petition for rehearing and request for judicial notice are denied. Swager, Acting, P.J.

Division Two

**A113363 – The People v. Thomas Michael Silva.**

The abstract of judgment shall be amended to strike the \$420 restitution payment to Woody's Chevron. In all other respects, the judgment is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A111363 – The People v. Michael Gralla.**

**A115953 – In re Michael Gralla on Habeas Corpus.**

The petition for writ of habeas corpus is denied. The judgment is affirmed and this case is remanded for re-sentencing consistent with this opinion. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

**A110151 – The People v. Orlando Pubill.**

By the Court: Good cause appearing, defendant's unopposed application to recall the remittitur in the above-referenced matter is granted. The remittitur issued by this court on January 29, 2007 is recalled, and the superior court clerk is directed to return the remittitur to this court for cancellation forthwith. The clerk of this court is directed to reissue and refile the opinion of this court originally filed on October 24, 2006 to enable counsel to file a timely petition for review in the California Supreme Court. Thereafter, the remittitur shall issue in accordance with rule 8.272 of the California Rules of Court. Parrilli, Acting P.J.

**A114234 – Lloyd Schloegel v. John Schloegel, et al.**

The document entitled "Response from Appellant on Court of Appeal Memorandum on Case A114234 Dated February 21, 2007, " filed by appellant on March 2, 2007 is deemed a petition for rehearing and, as such, the petition for rehearing is denied. McGuiness, P.J.

Wednesday, March 21, 2007 (continued)

Division Three

**A106001 – James Oldani et al. v. Our Savior Lutheran Church et al.**

The orders granting partial judgment notwithstanding the verdict and a partial new trial are vacated, and the case is remanded for entry of judgment in favor of appellants, in accordance with the jury's verdicts. Appellants shall recover their costs on appeal. Siggins, J. We Concur: Parrilli, Acting, P.J., Pollak, J. (Not for Publication.)

**A108713 – Diablo Valley College Faculty Senate v. Contra Costa Community College District, et al.**

The judgment is affirmed. Appellant shall bear costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication.)

**A115638 – Trader Joe's Company v. Workers' Compensation Appeals Board, Rick Lee Evets.**

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on February 28, 2007, be modified in the following particulars: (See order.) There is no change in the judgment. Parrilli, Acting P.J.

**A110151 – The People v. Orlando Pubill.**

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

**A114897 – The People v. Wayen Wong.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)



Wednesday, March 21, 2007 (continued)

Division Five

**A114124 – The People v. Paul Edward Lorms.**

In FCR227492 and in FCR228048, the trial court is ordered to prepare and to forward to the Department of Corrections amended abstracts of judgment that omit the \$400 restitution fines under section 1202.4, subdivision (b) that were imposed on May 8, 2006. The \$200 restitution fines that were imposed on October 17, 2005 and November 14, 2005 remain in effect. In addition, the \$400 parole revocation fines imposed under section 1202.45 each must be reduced to \$200. In all other respects, the judgments are affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A114367 – David O. Thueson v. U-Haul International, Inc., et al.**

The request for judicial notice improperly contained in appellant's opening brief is denied. The motion to augment the record filed by appellant on December 6, 2006 is granted. The order awarding attorney fees is affirmed. Respondent shall recover costs on appeal. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, March 22, 2007

Division One

**A110301 – The People v. Kelvin Andrew Haqq.**

The judgment of the trial court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A114145 – The People v. Gabriel Reed Strasburg.**

The judgment and sentence are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication.)

Division Two

**A111523 – The People v. Aman Melles.**

The judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A112245 – The People v. Kevin Edward Clarke.**

The judgment is modified by striking the 1-year enhancement under section 667.5, subdivision (b) for appellant's prior prison term. The judgment is otherwise affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A116860 – Golden Gate Regional Center v. The Superior Court of San Mateo County, Marissa D. a minor, R.P.I.**

The Palma procedure is appropriate "when petitioner's entitlement to relief is so obvious that no purpose could reasonably be served by plenary consideration of the issue." (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.) Here, as the lack of any opposition to the petition attests, no purpose would be served by further review because petitioner's right to relief is clear. Let a peremptory writ of mandate issue commanding respondent superior court to vacate its joinder of GGRC in the underlying litigation and to enter a new and different order denying real party's request to join petitioner. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Thursday, March 22, 2007 (continued)

Division One

**A114936 - In re James T., a Person Coming Under the Juvenile Court Law. The People v. James T.**

The July 28, 2006 order sustaining jurisdiction under the June 8, 2006 petition is reversed, and the dispositional order is vacated. The matter is remanded to the juvenile court for a new dispositional hearing with respect to the April 2006 petition. Pollak, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A112454 – The People v. Ricki Jay Ingalsbe.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A115167 - In re Z.P., a Person Coming Under the Juvenile Court Law. The People v. Z.P.**

The juvenile court order denying deferred entry of judgment is reversed and the matter is remanded for the juvenile court to reconsider Z.P.'s request for deferred entry of judgment. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A115461 – The People v. Wayne Lamont Fuller.**

The judgment is affirmed. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Friday, March 23, 2007

Division Two

**A114382 - In re Kalann J., a Person Coming Under the Juvenile Court Law. The People v. Kalaan J.**

The jurisdictional and dispositional orders are affirmed. Haerle, Acting, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A115945 - In re Oliver L., a Person Coming Under the Juvenile Court Law. The People v. Oliver L.**

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A114540 - In re S.W., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Maurice W.**

The orders of the trial court are affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

**A113510 – The People v. Tony Sergio Bustamante.**

The judgment is affirmed. Reardon, Acting, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A115238 – The People v. Kimberly Ann Knight.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A111707 – Shaaron Green-Peace et al. v. Citywide Property Management, Inc., et al.**

The judgment is affirmed. Respondents shall be awarded costs on appeal. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A115500 – The People v. Howard Irving Neligh.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday, March 26, 2007

Division One

**A115264 – Geri A. Tevini v. Novato Community Hospital.**

The judgment of dismissal, entered upon confirmation of the arbitration award, is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Tuesday, March 27, 2007

Division One

**A115157 - In re Savannah T., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Melanie T.**

The juvenile court's dispositional findings and order are affirmed. Margulies, J. We Concur: Marchiano, P.J. Stein, J. (Not for Publication.)

**A114771 – The People v. Bharat Magan Patel.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A111881 – The People v. Marques Lott.**

The imposed determinate term is reversed and the cause remanded with directions to conduct further proceedings consistent with this opinion. In all other respects the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A113870 – The People v. Emilie Richard.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A114400 – The People v. Darryl Lee Goldstein.**

The judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A114797 - In re Gabriel B., a Person Coming Under the Juvenile Court Law. The People v. Gabriel B.**

The disposition minute order regarding the gang condition of probation is modified to state that defendant shall have: "No gang associations, colors, clothing, insignias, signs, paraphernalia or activities, *which defendant knows are related to or associated with membership or affiliation in any gang. For purposes of this condition, the word 'gang' means gang as defined by Penal Code section 186.22.*" As modified, the disposition order is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Tuesday, March 27, 2007 (continued)

Division Three

**A112970 – The People v. George Alberto Luarte.**

Defendant was at all times represented by competent counsel, and the record discloses no basis for reversal. Hence, the judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A114531 - In re Darmeka T., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. David T. et al.**

The order denying David's request to be considered Darmeka's presumed father is vacated and the matter is remanded to the juvenile court for further proceedings consistent with this opinion. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication.)

**A111416 – Insurance Commissioner of the State of California v. Golden Eagle Insurance Company, Danco Valve Company.**

The judgment is affirmed. Danco Shall pay costs of appeal. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A111225 – County of Alameda v. Harvey G. Ottovich.**

The judgment is affirmed. The County is awarded costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A114385 - In re DeShaun M., a Person Coming Under the Juvenile Court Law. The People v. DeShaun M.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Certified for Publication.)

**A112347 – Verlie Tatum, etc. v. City and County of San Francisco, et al.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

**A111821 – Dorothy Anderson v. City of Vacaville; The Tenants Residing at Casa Grande Mobilehome Park, R.P.I., Katherine Oppenheimer.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

**A113628 – The People v. Jamar Lindsey.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Certified for Publication.)

Tuesday, March 27, 2007 (continued)

Division Four

**A116753 – Dan C. v. The Superior Court of Humboldt County; Humboldt County Department of Health and Human Services, R.P.I.**

The petition is denied on the merits. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A113983 – The People v. Michael Decarie.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A113226 – Alfred Bordessa, as Trustee, etc., et al. v. Fritz Lanker, as Trustee, etc., et al.**

The order granting the preliminary injunction is reversed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A112378 – David Clark et al. v. Richard I. Fletcher, etc.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)



Wednesday, March 28, 2007

Division Two

**A111103 – The People v. Ramon Sanchez.**

The abstract of judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A109513, A110107 – Anita Ramirez v. Karyl Margaret Matsumoto.**

The order and judgment appealed from are affirmed. Respondent is awarded costs. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

**A111500 – Janis Arnold, et al. v. Saldan, LLC, et al.**

The judgment is affirmed. Costs on appeal are awarded to respondent Salma. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

**A116491, A117022 – Tricon Construction, Inc. v. Liberty Union High School District.**

By the Court: Upon due consideration of appellant's notification to this court that the record on appeal filed in A116491 is actually the record for the related appeal A117022, the record is hereby ordered stricken from A116491 and re-filed in A117022. Appellant's motion to consolidate appeals is granted for purposes of briefing, oral argument (if any), and decision. Both case numbers shall appear on all documents filed in this court. Appellant's consolidated opening brief shall be due 30 days after the record on appeal in A116491 has been filed. McGuiness, P.J.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, March 28, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J.; and B. Robbins, Deputy Clerk.

AA108054 Peter T.C. Chow, et al.,  
v.  
Kendall-Jackson Wine Estates.  
Cause called and argued by James Russell Rose, counsel for appellants, and Clayton E. Clement, counsel for respondent. Cause ordered submitted.

A114099 Conservatorship of the Person of James Michael Karriker.  
The People,  
v.  
James Michael Karriker;  
Sonoma County Public Guardian.  
Cause called and argued by William L. Adams, counsel for appellant, and Jeremy T. Price, counsel for respondent. Cause ordered submitted.

A110998 The People,  
v.  
Dwayne McDougale.  
Cause called and argued by Susan M. Burke, counsel for appellant, and Arthur Beever, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Parrilli joined the bench and Justice Pollak left the bench. The panel for the next case consisted of Justice McGuiness, Justice Parrilli, and Justice Siggins.

AA116632 Rosario M.,  
v.  
The Superior Court of Marin County;  
Marin County Health & Human Services, et al.  
Cause called and argued by Jenie Sook Chang, counsel for petitioner, and Edward J. Kiernan, counsel for respondent Marin County Health & Human Services; and Kelly Y. Reiter, counsel for respondent minors. Cause ordered submitted.

At this point in the proceedings, Justice Pollak returned to the bench. The panel for the next case consisted of Justice McGuiness, Justice Parrilli and Justice Pollak. Justice Siggins did not participate in the argument but remained on the bench.

A113573 California Teachers Association, et al.,  
v.

Vallejo City Unified School District.

Cause called and argued by David Weintraub, counsel for appellants, and Amy R. Levine, counsel for respondent. Thomas J. Driscoll, counsel for amicus curiae for appellant, also appeared but after discussion with Justice McGuiness, it was determined that Mr. Driscoll did not have prior permission to argue on behalf of amicus curiae. Cause ordered submitted.

At this point in the proceedings, Justice McGuiness left the bench and the panel for the remainder of the calendar consisted of Justice Parrilli, Justice Pollack and Justice Siggins. Justice Parrilli presided over the remainder of the calendar.

A113573 The People,  
v.

Larry Virgil.

Cause called and argued by Celia Louise McGuiness, counsel for appellant, and Stan Helfman, counsel for respondent. Cause ordered submitted.

A111401 Janice Anderson-Santos,  
v.

City and County of San Francisco.

Cause called and argued by Beth A. Huber, counsel for appellant, and Larry Hecimovich, counsel for respondents. Cause ordered submitted.

Court Adjourned.

Wednesday, March 28, 2007 (continued)

Division Four

**A114577 – The People v. Richard Stamper.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A110232 – The People v. Shannon Avery.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A116724 – Silverado Country Club & Resort, Inc. v. The Superior Court of Napa County; Julie Anne Eagleton, R.P.I.**

Let a peremptory writ of mandate issue directing the trial court to vacate its February 5, 2007 order and to enter a new and different order granting Silverado's motion to continue trial at least six months. Silverado shall recover its costs for this proceeding. (Cal. Rules of Court, rule 8.490(m).) The stay previously imposed by this court is dissolved, and this decision shall be final as to this court immediately upon filing. (See rule 8.264(b)(3).) Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A113172 – Ryan Walsh et al. v. Ikon Office Solutions, Inc.**

By the Court: Order Modifying Opinion and Certifying Opinion For Partial Publication.

It is ordered that the opinion filed herein on March 1, 2007, be modified as follows: (See order.) There is no change in the judgment. The opinion in the above-entitled matter filed on March 1, 2007, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be partially published in the Official Reports, and it is so ordered. Jones, P.J. (Certified for Partial Publication.)

**A112365 – Cause Statewide Law Enforcement Association v. State of California Department of Personnel Administration.**

The order denying the petition to compel arbitration is reversed. Gemello, J. We Concur: Simon, Acting P.J., Needham, J. (Not for Publication.)

**A110349 – The People v. Douglas Mark Lunsford.**

The judgment of conviction is affirmed. Miller, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, March 29, 2007

Division One

**A114027 – The People v. Edgar Bruno Jones.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A114735 – The People v. Francisco R. Ortega.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A113774 – Sierra Club and Friends of the Gualala River v. California Department of Forestry and Fire Protection; Phil Campbell et al., R.P.I.**

The judgment denying the petition for writ of mandate is reversed. The stay previously imposed by our issuance of a writ of supersedeas will remain in full force and effect until the remittitur issues. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A115712 - In re Michael L., a Person Coming Under the Juvenile Court Law. The People v. Michael L.**

The order of commitment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

**A112387 – City of Fairfield v. John B. Lassus.**

We affirm the order appealed from. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A113346 – The People v. William A. Wisterman.**

The case is remanded to the trial court with directions to specify the component parts of, and the statutory authority for, the penalty assessments levied in connection with the fees imposed under sections 11372.5 and 11372.7, and, if necessary, to modify the aggregate amounts of the penalty assessments accordingly. The trial court shall prepare an amended abstract of judgment reflecting the aggregate penalty assessments as well as the amount of, and statutory authority for, the component parts of each penalty assessment. The trial court shall deliver the amended abstract to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed. McGuinness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

Thursday, March 29, 2007 (continued)

Division Three

**A113716 – The People v. Genaro Gonzalez Lopez.**

The trial court is directed to modify the minute order from the sentencing hearing held on March 9, 2006, to reflect that the probation supervision fee in the amount of \$75 per month is a separate order entered at judgment and not a condition of probation. The judgment is affirmed as modified. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A112220 – The People v. Larr Brant Sargeant.**

The judgment is reversed as to the sentence and the case is remanded to the trial court for resentencing. In all other respects, the judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A110998 – The People v. Dwayne McDougale, Jr.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A116632 – Rosario M. v. The Superior Court of Marin County; Marin County Department of Health and Human Services, et al., R.P.I.**

The petition for extraordinary relief is denied on the merits, and the stay of permanency planning hearing ordered by this court on February 2, 2007 is hereby dissolved. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) So that the trial court may proceed with the permanency planning hearing forthwith, our decision is immediately final as to this court (Cal. Rules of Court, rule (b)(3).) McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

**A112325 – The People v. Shawn Chadley Russell.**

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

**A113381 – The People v. John Wilbur.**

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A108054 – Peter T.C. Chow et al. v. Kendall-Jackson Wine Estates LTD.**

The judgment filed on July 28, 2004, is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Thursday, March 29, 2007 (continued)

Division Three

**A110721 – California Teachers Association, et al. v. Vallejo City Unified School District.**

The judgment is reversed, and the trial court is directed to enter an order granting the petition for writ of mandate. On remand, the trial court shall conduct further proceedings on the issues of damages and reappointment rights of the teachers who are the subject of this appeal. The parties previously stipulated to allow discovery on the issue of mitigation of damages, and we agree such discovery should be permitted. (See *Bakersfield, supra*, 145 Cal.App.4th at p. 1303.) Costs on appeal are awarded to CTA. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication.)

**A108054 – Peter T.C. Chow et al. v. Kendall-Jackson Wine Estates, LTD.**

The judgment filed on July 28, 2004, is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A115211 – The People v. \$43,721 United States Currency, Michael Eisenhauer.**

The appeal is dismissed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A112572 - In re Genaro R., a Person Coming Under the Juvenile Court Law. The People v. Genaro R.**

The trial court's order suppressing the minor's confession is affirmed as to the portion of the minor's confession that is reflected in the corrected transcript (exhibit 27) beginning at page 29, line 8 ("Because I have two people that say they saw you do that.") through the end, and reversed as to the portion that is reflected in the transcript from the beginning through page 29, line 7 ("I'm sure."). The trial court's order dismissing the petition is reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion. Ruvolo, P.J. I Concur: Rivera, J. (See concurring and dissenting opinion by Sepulveda, J.) (Not for Publication.)

**A112136 – Jackson Plaza Homeowners Association v. Vincent T.C. Tai et al.**

The judgment is reversed. The parties to bear their own costs on this appeal. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A115353 – The People v. Lonzelm Tyrell McIntosh.**

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Thursday, March 29, 2007

Division Five

**A112327 – The People v. Nathan Tyrone Deese.**

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

**A114941 – Citizens for a Megaplex-Free Alameda v. City of Alameda et al.;  
Alameda Entertainment Associates, L.P., R.P.I.**

The judgment is affirmed. Miller, J.\* We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.